IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9977 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ALL INDIA BANK OF BARODA EMPLOYEES UNION - Petitioner(s)

Versus

BANK OF BARODA - Respondent(s)

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Appearance :

MR DS VASAVADA for Petitioner No(s).: 1.

MR DARSHAN M PARIKH for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 29/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 7th January, 1994 passed by the Industrial Tribunal in Reference [I.T.C.] No. 2 of 1992 whereby the said Reference was rejected.

2. The short facts of the case are that the respondent Bank has mainly three branches in the Vapi area and on the employees being transferred to the said branches the rate of HRA was reduced from 8% to 6 %. However, before 1990, the rate of HRA in the said three branches was uniform i.e. 8%. It is the case of the petitioner Union that the respondent Bank without following any procedure under the Industrial Disputes Act, 1947, reduced the rate of HRA of Chand Branch.

2.1. Being aggrieved by the said action of the respondent Bank, the petitioner Union raised an industrial dispute, which was ultimately referred to the Industrial Tribunal, for adjudication. The Industrial Tribunal after considering the case of merits, rejected the said Reference. Hence, this petition.

3. Mr. D.S. Vasavada learned advocate for the petitioner Union has contended that the Industrial Tribunal has erred in not appreciating the fact that since for years the HRA was paid at the rate of 8%, and thereafter the respondent Bank without following any procedure reduced the rate of HRA from 8% to 6 %. Therefore, the said order deserves to be quashed and set aside.

4. As against that Mr. Parikh learned advocate for the respondent Bank has contended that as per Clause 7 (iv) of Bipartite Settlement dated 23.2.1989 the rate of HRA was 6 % at places with population of less than 10,000 and as per 1981 census, the population of Vapi area was less than 10,000. Hence, the HRA of the branches situated in

Vapi area was reduced to the rate of 6 □ %.

5. I have heard the learned advocates for the respective parties and have perused the materials placed on record. From the impugned order of the Industrial Tribunal, it is clear that as per 1981 census, the population of Vapi area is less than 10,000 and hence, the rate of HRA for the branches situated in Vapi as per the Bipartite Settlement would come to 6 □%. However on account of some mistake committed at the lower level of the administration of the respondent Bank, HRA at the rate 8% was being given. As soon as the said mistake came into light of the respondent Bank, immediate action was taken to rectify the same. Hence the Industrial Tribunal was justified in concluding that the provisions of Section 9-A of the Industrial Disputes Act, 1947 would not be attracted.

6. In above view of the matter, I am of the opinion, that the Industrial Tribunal has given cogent and convincing reasons for rejecting the Reference and I see no reason to interfere with the same. Hence, the petition is rejected. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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